

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREGORY J. PHILLIPS,

Defendant.

MEMORANDUM

03-CR-0040-C-01

The Court of Appeals for the Seventh Circuit has remanded this case for the sole purpose of allowing the court to say whether it would have imposed the same sentence on defendant Gregory Phillips had it known that the Sentencing Guidelines were advisory only. After reviewing the presentence report, the transcript of the sentencing hearing and the memoranda from counsel on the issue, I can say that I would impose the same sentence were I to resentence defendant under the now advisory scheme.

I continue to believe, as I said at defendant's sentencing, that the guidelines for distribution of crack cocaine are "horrendous." Bad as they are, however, they conform to Congress's decision that the penalties for this form of cocaine should be far harsher than those for powder cocaine. So long as Congress remains firm in that determination, it is my

belief that judges should give deference to that determination whatever their own views about the wisdom of the determination.

It is true that defendant was very young when he was sentenced and that he had a difficult childhood in the Chicago projects. The difficulty of his own life makes it all the more unfortunate that he has chosen to father five children by four different women and then abandon them, essentially condemning them to troubled lives of their own. It appears that defendant had few problems with school work when he attended school and abstained from fighting but he has never put his intelligence to any good purpose. I believe that the sentence imposed on defendant originally is reasonable and necessary to protect the community from his criminal activities and to avoid unwarranted sentence disparities among offenders with similar records who have been found guilty of similar conduct.

Entered this 29th day of December, 2005.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge